THE STAR ROUTES

[Continued from Part Paped]

Majesty's name. But these informations (of every kind) are confined by the constitutional law to merenoisetent anors, only; for whenever, are capital oftrease is charged the axian law requires that the acrunation be warranted by the oath of welve men before the party shall be put to anxect it.

That, I apprehend, correctly states, not only the
law of England as it was at the time, but the law
of America as it was not the time of the adoption of
the Constitution, and, save as affected by the
Fourth Amendment to the Constitution, the law
at its here.

we claim that this cosmon law passed over to us and was adopted with our Constitution. Now, as to the question of the right to file an information, we were assured vestering by one of the excinsel on the other side (Mr. Wilson), that our filing this information, had astounded the entire profession. I do not know whether he said of America or of the District of Columbia, for Lam bound to presume he apoke the truth, and, I hope, if the bar of the District of Columbia for Lam bound to presume he apoke the truth, and, I hope, if the bar of the District of Columbia were as ignorant as he asserts, that he could not truthfully make the same statement of the our of the whole country, because the laws of the country, the statutes of the country, the decisions of the country lay of the country and beyond all question. I refer Your Honor to certain acts of Congress passed tipon that subject. For instance, as eatly at April 39, 1790, in Section 32 of chapter 9 it is provided— WE CLAIM THAT THIS CONDON LAW

provided—
That no person or persons shall be prosecuted, tried, or punished for treason or other capital offense aforesed, willful murder or forgers' excepted, unless the indictanent for the same shall be found by a grand jury within three years next after the treason or opinion offense aforesial shall be done or coronized pulsability of the same by present of the form of the property of the form of the property of the propert fense or incurring the fine or forfeiture aforesaid.

Here we find that ascarly as 1799, in, I think, the
first statute of limitation passed after the adoption
of the Constitution, there is a direct recognition of
the right to proceed by information in certain
classes of cases. Now, that provision passed
over into the Revised Statutes, sections 1945 and
1944, section 1945 relating to the first clause of the
section of the statute of 1790, and corresponding to
it, and providing—

Section 1944 provides: person shall be prosecuted, tried, or punished my offense not capital, except as provided in sec-1646, unless the indictment is found or the in-nation isatiuted within two years next after such use is committed.

HERE AGAIN WE HAVE HERE AGAIN WE HAVE

a recognition of the distinction between the classes of crimes and an allowance of the proceeding by information in the one case, although it is not allowed, in the other. This section 1044 was amended in 1876 by clanging the period of limitation from two to three years, but Congress retained the language "indictment or information." Again, we find that in the act of March 25, 1894, it is declared:

Is declared:

That any person or persons guilty of any crime arising under the reverue laws of the United States, or incurring any fine or forestore by breaches of the said laws, may be presented, tried, and punished, presisted the indictment or information to found at any time within five years after committing the offense.

Thus recognizing as to cases arising under the revenue laws the right to proceed by information. Something was said in the course of the argument yesterday to the effect that there might have been

have been

Some sont of proceeding by information allowed in trivial cases, but we find in 1815 the statute against the slave trade providing "that any prosecution, information, or action, may be sustained for any offense under this act at any time within five years after such offense shall have been committed." Now I apprehend that nobody ever considered that act as relating to trivial cases; certainly no one would so consider it at this day. Both these sections which I have cited, that relating to offenses under the revenue laws, and that relating to offenses under the act relating to the slave trade were consolidated in section 1046 of the Revised Statutes, which is the section referred to in the exception in section 1044, and which reads:

No person shall be presented, tried, or punished or any crime arising under the revenue laws or the save-trade laws of the United States unless the in-idential is found or the information is instituted within re years next after the committing of such crime. five years next after the committing of such crime.

Here again you have a distinct recognition of proceedure by information. Again the civilrights act of 1870, contained a provision express that "all crimes and offeness committed against the provisions of this act may be prosecuted by the indictment of a grand jury; or in cases of crimes and offeness not infamous, the prosecution may be either by indictinent or information filed by the District Court having jurisdiction." And although a portion of the civil-rights act was held to be unconstitutional, and some indictments under it were held to be defective, the constitutionality of that section of the act was never in any way disputed. This section is again re-enacted in the lievised Statutes in the following form:

All crimes and offeness committed against the pro-All crimes and offanses committed against the pro-ciaions of chapter 7, title "Crimes," which are not in-famous ray be presented either by indictment or by aformation filed by a district attorney.

And finally section 1925 of the Revised Statutes provides that—

THIS RE-ENACTS THE ACT OF MAY 28, 1872, which was passed in consequence of the circuit indee in the city of New York having after a party had demarred to an indictment under the election laws, refused him leave to answer over, and sent him to State prison. The act of 1872 providing that there should be an absolute right to answer sent him to State prison. The act of 1872 providing that there should be an absolute right to answer over, recordized expressly the right to mayor over, recordized expressly the right to proceed by information. Not only that, but the decisions of the courts are numerous to the effect that the right to proceed by information does exist. The earliest case on the subject that I have found is that of the United States ex. Mann. I Allison, reported twice at pages 3 and 177. The case arose in 1812, where it was held that the exportation of goods to a foreign country contrary to the embargo act of 189 was a misdemeanor and could be prosecuted by criminal information. The question was raised whether in this case the prosecution could be by criminal information, and the same judge, upon whom the gentlemen upon the other side relied so much in their argument yesterday, Judge Story, the commentator upon the constitution was the man who made the decision, and he held that the proceeding could be by information. The question raised in that case; I am bound to say, was not so much whether it must be by information. The question raised in that case; I am bound to say, was not so much whether it must be by information by indictment as it was whether the act looked to a criminal proceeding; but a criminal proceeding by information having been taken Judge Story upheld it. Now, the statute of 1809 referred to in this case cannalms this provision?

That all penalties and forfeitures incurred by force of this act cuttled "An act laying an embargo on all ships and vessels in the ports and hickors of the United ciates," or by virtue of the several acts supplemented thereto, may be proscented, sated for, and recovered by action of sich, or by inflictment or information, any law, waye, or custom to the contrary movinihalizations.

MODE RECENTLY THERE HAVE BEEN

formation any law, ways, or custom to the contrary howthen along.

A sories of cases to which I will briefly call Your Honor's altention, and if they do not convince you that we have the right to file this information they will at least satisfy you that we are not those conspirators against the peace of the peaple (Brady peing "the people"), and against the institutions of the country, which it was asserted vesterday that we were. In the case of U.S. vs. Mailin (I Sawyer, 701), the same Mr. Justice Field who delivered the charge to the grand jury upon which the counse upon the other side relied so much yesterday, held an information filed by the District Attorney charging a crime in introducing spirits into Alaska good, and he said this:

We are of the opinion that an information may be filed by the District Attorney in behalf of the United States in the national courts for misdementors committed against the laws of the United States. He stated it broadly that the information could be filed for misdementors dominated against the laws of the United States. From the statement at the head of the case it appears that there is an exception, that attention was called to the constitutional provision on the subject, and that "lafamous crimes and misdementors of course mist be exception, that attention was called to the conwithin the largings I have cited. In that case an indictional provision on the subject, and that "lafamous crimes and insequences of course mist be excepted, and therefore they would not come within the largings I have cited. In that case an indiction has a subject, and that "lafamous crimes and insequences of course mist be excepted, and therefore they would not come within the larging of his we cited. In that case an indiction, havin, in the case of the United States vs. Block, 4 Sawyer, 2tl. we find a decision by Judge Deady bearing on this question. He there allowed an information against a bankrupt who had omitted assets from his schedule, and had be proceeded against by information and commended

in New York: Wharten's Criminal Law, seventh edition, see, 213.

Thus, by constitutional provision and positive legislation in the States, informations, as a mode of criminal prosecutions, were either very much restricted or abolished, and the result was that in the State courts the prevailing method of proceeding was by indictment, and naturally the same practice obtained in the Februal courts. But the constitutional provision (Fifth Amendment) leaves all offenses open to prosecution by information, except those which are capital or information, which is not entertied of Congress of Congress which inply that informations may be filed for criminal offenses. We are of the opinion, therefore, that offenses not capital or infamous may, in the discretion of the court, be prosecuted by information.

I have also to refer to the fact that my friendyestate to the grant of t

by information.

I have also to refer to the fact that my friend yeaterday, in citing Judge Field's charge to the grand jury, delivered in California, remembered to forget that Judge Field, in that charge, specially excepted the right to proceed by information, and

get int Jange Field, in that charge, specially excepted the right to proceed by information, and recognized the right to proceed by information, and and then went on to speak as to the procedure before a grand jury. I think now that I may fairly claim that I have shown to Your Honor not only that the right to proceed by information existed by the common law when our Constitution was adopted, but that it came over to this country as a part of the institutions and procedure which we inherited, that it was early recognized by Congress, that it has since been repeatedly recognized by Congress, and that it has been repeatedly recognized in numerous cases by the country of the United States, and in all portions of the country. I think there is but a single case, which was of so little importance that our friends on the other side

DID NOT BEFER TO IT.

n case arising in Washington Territory and reported. I think, in one of the volumes of the Interported. I think, in one of the volumes of the Interported. I think, in one of the volumes of the Interported. I think, in one of the volumes of the Interported of Interpo

I call Your Honor's attention in that connection to the case of the United States vs. Shepard, where they say that felonies at the common law at the time of the adoption of the Constitution con-sisted only of crimes which were capitally pun-lshed.

ished. The question then is whether completing to defraud a within this general designation of a crimes field, considering the temperature of the that is a good property for the crimes field, and every crimes field, as perjuty, forgery, and every crimes field, as perjuty, forgery, and the like," Bishop on Crimes, § 973; Gilbert on Evidence, 296.) crimen fedet, as perjury, forgery, and the like."
(Blanop on Crimes, 1972; dithert on Evidence, 256.)

That seems to confine it to that class of cases; and if we except forgery all of the text writers in their enumeration refer only to crimes which directly concern the administration of public justice. In other words, they say that no crime is infamous as coming within the definition of reisers fold unless it directly concerns the administration of public lustice; and that leads Greenles (Evidence, 1872) to say that "from these decisions it may be deduced that the crimen falls of the civil law not only involves the charge of taleshood, but also is one which may injuriously affect the administration of justice by the introduction of alsehood and fraud."

My friend on the other side yesterday cited the case of Commonwealth vs. Shaver 3 Walls & Serg. I might say here that they cited it as sustaining, among other thines, the point to which I shall have to refer in a few moments, that in that case it was hold that a punishment which incapacinates as a puror or a witness renders him infamous. Let us see whether that is a correct statement of the case. In this case a sheriff had been convicted of bribing a voter. He was ineligible as sheriff if he had committed an infamous erime. The opinion in this case was delivered by Judge Kennedy, and with due deference I might perhaps, commend his views to the clients on the other side. Judge Kennedy says:

For although an officer may, in a popular sense, he said to have readered himself infamous by the general tener of his immoral conduct, without having readered themself label to a criminal procession and

For Although an officer may, in a popular sense, he said to have rendered himself inhimson by the general tener of his immoral conduct, without having rendered inseed inhimself habt to a criminal prosecution and populationself habt to a criminal prosecution and populationself habt to be very obeat that the word "infarrows should be applied to any officer so as to cause him to be removed from office, however immoral his conduct may have been unless he has been guilty of some offense that is made purchable by law! Because, by the express terms of the provision he is not to be removed from office without previous conviction, which can only be when the offense committed by him is such as is made pumbishable by law. He may therefore because official to the inverse attending detailed, which we one of the meanings given by Mr. Welster in his dictionary to the word "infarrous," without having made himself hishest to a prassention and conviction at law far his mileconduct. Indeed, he may be so notuciously and entirely destinute of truth as to be allogether unworths of credit, even when called to testify on early and entirely destinute of truth as to be allogether unworths of credit, even when called to testify on early and entirely destinute of truth as to be allogether unworths of credit, even when called to testify on early and entirely destinute of truth as to be allogether unworths of credit, even when called to resulty on early and entirely destinute of truth as to be allogether unworths of credit, even when called to resulty on early for which he cannot be indicated or punished y law, and yet they are additioned all moral obliquity, for which he cannot be indicated or punished y law, and yet they are addition and law information of the more intelligent and purchably be some diversity of spinion whether they are all the estimation of the more intelligent and all moral obliquity, for which he cannot be indicated or punished yet and the estimation of the more intelligent of the officer which and the purchased of the

on, Mr. Ingersoll—I simply asked you for the au-horities. There is no occasion for any smartness

from you.

Mr. Bliss—Yes, several authorities are given: 1
Hawk. P. C. cap. 67, sec. 2: 3 Just, 145; 4 Bl. Com.
139; 1 Russell on Crimes, 156.

"Though in Clancey's case (Fortescue's Rep., 208), where, after great deliberation, a conviction of Hawk. P. C. cap. 67, sec. 2: 3 Just, 145; 4 Bl. Com. 130: 1 Russell on Clancey's case (Fortescue's Ren., 208), where, after great deliberation, a conviction of bribing a witness to absent himself and not give evidence, was held to be an infamous offense by seven of the judges, and for that reason rendered the party incapable of giving evidence, that great and distinguished judge, Lord Holt, then Chief-Justice of the King's Bench, doubted the propriety of the decision. The ground of the decision in Clancey's case was that the purpose of the bribery was to obstruct and pervert the administration of public justice by preventing the truth from being made known. The same ground was adopted in a late case of Rushell vs. Harrett, fix Moo. 3th; S. C. 2, E. C. Law, 483. In this latter case, the objection to the witness was, that he had been convicted of a conspiracy to bribe a person, summoned as a witness on an information against the revenue laws, not to appear before the justice of the peace, who were to investigate the matter and decide on it; and held by the court, according to the principles of Clancey's case, that he was rendered incampetent by the court say in this latter case, as also in the court say in this latter case, as also in the case of Clancy, that it was not because the party had been convicted by firstery or a conspiracy to bribe that in was rendered incampetent by the court, according to the principles of Clancey's case, that he was rendered incampetent by the court say in this latter case, as also in the case of Clancy, that it was not because the party had been convicted of hirbory or a conspiracy to bribe that in was rendered incampetent by the court say in this latter case, as also in the case of Clancy, that it was not because the party had been convicted of the bribery of a conspiracy to bribe that in was not because the party had been convicted of the bribery of a conspiracy to bribe that in was not because the party had been convicted by means of the bribery and punishable at common law, (fi

See the first of the case of appoint that there is a whiteher and the class to whiteher a work any disquaritient to hold the case of appoint that there is a proposal that the case of appoint that the case of appoint that the case of the potential that the potential that the case of the potential that the case of the potential that the potent

I think I shall show that I am justified in say-

I think I shall show that I am justified in saying it.

This question come up most distinctly in the case of the Ville de Varsoyle, 2 Dotson, 174, where, though it was in an admirally court, six William Scott (Lord Howall) said he must decide it on the principles of common law. He held that there was no case in which a conviction for comprincy had been held to make a man infamous anless it was a conspiracy to do something which directly affected the administration of festice, and find he wonders with the principles of common law. He had not something which directly affected the administration of the control of the is that it is my within the limits of any exact definition of the word fails; for, I presume, it would be as inconvenient to say that every independent spon a felschosed, however a slight and unitaportant in its injurious effects, would subject the concisced party to too dissoulty, as a would be to say that there are no crimes coming under the description of fails that ought to subject to such an incapacity. My limited acquaintance with the crime, or a pictary chomeration of the species that are comprehended under it. Mr. Justice Black to the crime, or a pictary chomeration of the species that are comprehended under it. Mr. Justice Black to tone lays it down thus: A conviction of any officiace comprehended is and the general term, as I have observed, leads to no defined mediate and exclusive specification reportedly: thus (it. Mit. Every crimen fails), such as forgery, perjury, and the like, but without laying down as a guide to my judgment what degree of likeness is required, and where it ought to end, and becomes extinct. Mr. Peake (35) states it thus—every species of the crimen fails, such as porjury, conspiracy, de. Mr. Fallips. (b. 15), no crimine fails, such as perjury, de. Here is a large shalus under these et celerus and believe, and I should find great difficulty in filling it, except under the guidance of desirmmed cases. Some text authorities certainly mention conspiracy among the grounds of incapacity; but surely, not every conspiracy in the unifmited sense of the word; though Lord Coke, in the passage referred to, as a revery conspiracy in the unifmited sense of the word; though Lord Coke, in the passage referred to, as a certainly mention conspiracy among the grounds of incapacity; but surely, not even to a conspiracy by intending the end of the constitution of the likes, and the constitution of the likes, and the constitution of the likes, and the constitution of the likes and the constitution of the likes and the constitution of the constitution of the passage to the constitution of the passage

the one which is most largely and almost exclusively referred to in the text-book authoritics upon that subject where he says this. (Co. Litt. 6 b.)

They were not to be sworn at all, neither to be joined to the jury nor as witnesses, as if the wirness was infamous, for example, if he do attained of a false verdict, or of a compliancy at the source of the King, or convicted of a perjury, or of a presentire of the King, or convicted of a perjury, or of a presentire of the care, and the perfect of the convicted of the perjury of the present lost his care, and, the perjury of the present lost his care, and, the perjury of the perjury of the perjury of a presentire to the care and the perjury of the perjur

little curious case:

Even the civil writ of conspiracy seems not to have been extended until the seventeenth century to any matters beyond the praview of the 22 Edw. I. Instances will be found in the fifteenth and stateenth centuries of its application to the making or use of false evidences, which may be traced to the statute 141, 1 Hen. V. c., 2; but even this was not allowed in carrier times. (See e. g. in 154, Year Book, 33 Edw. 111., p. 43b. Writ of conspiring to force and put in evidence at a trial a false deed of release. Thorp, J., said: "And do you think you have a writ of con-piracy on ground of an evidence? You shall not have it."

The fact is, Your Honor, that the statute of

when the proposed when the control of the proposed with the propos

The information filed by the Attorney General

only to call your attendion to one passage in it. court could be a supposed to the control of the court of th

from Cole on Criminal Information, p. 35:

The court will grant a criminal information for a compriser to raise the price of salt, or any necessary of the from what quarter soever the complaint comes except the attorney generat on beind for the crown, for he may file one ex-edicto). It matters not that he party applying for the information seems binned in some measure failty, and the application proceeds from a selfast modive. For such an application materially concerns the public; and, therefore, on grounds of public policy the court will grant a crite in anoh cases, notwithstanding the misconduct of the prosector. Where the offence is against the public interest, as bribery in the election of alderman, who will, by virtue of the office, be a justice of the peace, the court will grant as information on the sole testimony of a particept criminis if uncontradicted.

And therefore if it were correct that the rules and

ST. JOHN'S CHURCH, GEORGETOWN. Anniversary of the Brotherhood of the

Parish-Sermon by Dr. Fair. Yesterday being the anniversary of the Yesterday being the anniversary of the Brotherhood of St. John's Eartsh, Georgetown, a large congregation assembled at St. John's Church last evening to participate in the impressive services commensurate with the occasion. At the close of the services the rector stated briefly the charitable objects of the association, and introduced Rev. Dr. Fair, rector of Ascension Church, in Battimore, who was announced to deliver a sermon on this occasion. The reverend speaker took for his subject church work and the duties laymen should take upon themselves in it. God's work, he said, is to be done in God's church, and every one, no matter themselves in it. God's work, he said, is to be done in God's church, and every one, no matter what his station, has certain duties to perform. We olaim for the church, in a certain sense, perfection and infallibility. It is not of man's making. Many people are led to think of their parish or church what others have said about it in their hearing or in society. The ideal layman should never speak unkindly of his own church. The stranger, naturally diffident in approaching a church, should be received kindly and pleasantly at the church's door, and that cordiality in receiving him should extend to the pow. He should also receive a good impression from the liberal manner in which the ideal layman will present his offering, and thereby show that he

his offering, and thereby show that he PRACTICES IN FACT WHAT HE PROFESSES. PRACTICES IN FACT WHAT HE PROFESSES.

The ladies also have a large share in this congregational work. The charitable and religious work of the parish should not be left exclusively to be borne by the rector upon his own shoulders; the ideal layman will participate to the full extent he is able to perform in the parcehial duties to be cared for. Nor should this parish work be confined within the four walls of our church building but those is an approximate the done though the statement. ing, but there is far more to be done than to min-ister to the wants of our particular parish alone; there is "city work" to be done; we should cast our anchor wherever we can go in harmony with the requirements of the church to which we belong, from our parish to the diocese, to the whole Protestant Episcopal church of America, and its missions established in foreign lands. There were two departments, the reverend seather continued which havened as exchange continued which havened as the dwarf. speaker continued, which he would not then dwell upon at length—one of them was the home. There was no way in which the ideal laymen could exemplify his true principles more than there. There would be a rest in Heaven for these who do their duties upon earth. The speaker closed with impressively depicting the future glory of the true Christian.

A Case of Husband and Wife.

To the Editor of THE REPUBLICAN: One year ago last June a New Yorker holding a position in the Sixth Auditor's Office was taken sick, and by the advice of his physician, made application for the transfer of his position to his wife. To this application he had the indorsement of the entire New York delegation in Congress asking that the transfer be made. This New Yorker's conditional resignation was accepted, and his wife appointed in his stead. Now, after a lapse of five months, she takes a notion to leave him and his two children to get along as best they are while she helde on to the office and as they may, while she bolds on to the office and salary in order to gratify her own selfish purposes. In the meantime her husband, whose health has much improved, seeks to be reinstated, but is met with all sorts of objections. It is generally supposed that the legal residence of the husband carries and includes his famlly, but to provent his regaining his position, by some means or other, this woman, who was appointed in her husband's stead, he being an ex-Union soldier and staunch Republican, and because he was too ill to perform the work, suffering as he was from philisis pulmo-

this issue of THE REPOBLICAN. They will appear on Monday, together with to-day's entire proceedings in court.

The Presbyterian Synod of Virginia met in the Tabb Sireet Church, Petersburg, Thursday night, with about 250 delegates present. The opening sermon was presched by Rev. Dr. C. M. White, of the Presbytery of Winehester. Rev. Dr. A. C. Hopkins, of Charlestown, W. Va., was elected moderator for the ensuing year. Rev. W. N. Scott and W. S. P. Bryan were elected temporary clerks.